

Criminal Notice of Appeal - Form A

NOTICE OF APPEAL

United States District Court

Southred District of New York

Caption:

United States of America v.

Xing Wu Pan

Docket No.: 51 12 Cr. 153  
RJS  
(District Court Judge)

Notice is hereby given that Xing Wu Pan appeals to the United States Court of Appeals for the Second Circuit from the judgment       , other        entered in this action on 10/11/13 (date) (specify)

This appeal concerns: Conviction only ☒ Sentence only ☐ Conviction & Sentence ☐ Other ☐

Defendant found guilty by plea ☐ trial ☒ N/A ☐

Offense occurred after November 1, 1987? Yes ☒ No ☐ N/A ☐

Date of sentence: 10/10/2013 N/A ☐

Bail/Jail Disposition: Committed ☐ Not committed ☒ N/A ☐

Appellant is represented by counsel? ☒ Yes ☐ No ☐ If yes, provide the following information:

Defendant's Counsel: Tesser, Ryan & Rochman, LLP

Counsel's Address: 509 Madison Avenue  
New York, NY 10022

Counsel's Phone: 212-754-9000

Assistant U.S. Attorney: Brian A. Jacobs, Esq.

AUSA's Address: One St. Andrew's Plaza  
New York, NY 10007

AUSA's Phone: 212-637-2512

[Signature]  
Signature

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED OCT 24 2013

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
-----X  
UNITED STATES OF AMERICA,

-against-

Case Number: S1 12 Cr. 153 (RJS)

XING WU PAN,  
a/k/a "OLIVER PAN,"

**NOTICE OF APPEAL**

*Defendant.*

-----X

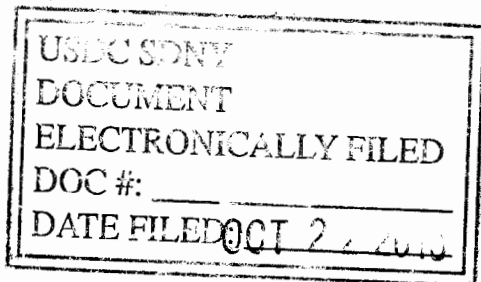
Notice is hereby given that XING WU PAN, defendant in the above named case, hereby appeals to the United States Court of Appeals for the Second Circuit from the within Judgment of Conviction entered in this action on October 10, 2013 and filed with the Clerk of the Court on October 11, 2013.

Date: October 21, 2013

TESSER, RYAN & ROCHMAN, LLP

By: \_\_\_\_\_

Gregory J. Ryan, Esq.  
Irwin Rochman, Esq.  
Attorneys for Appellant  
509 Madison Avenue  
New York, NY 10022  
(212) 754-9000



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
-----X  
UNITED STATES OF AMERICA,

-against-

Case Number: S1 12 Cr. 153 (RJS)

XING WU PAN,  
a/k/a "OLIVER PAN,"

**AFFIDAVIT OF SERVICE**

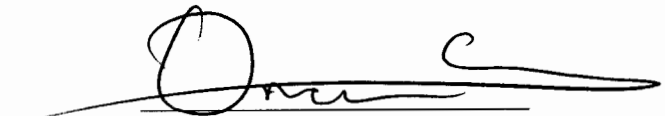
*Defendant.*

-----X

I, Omar Evans, being sworn, say: I am not a party to the action, and I am over 18 years of age and reside in Queens, New York. On October 21, 2013, I served the within NOTICE OF APPEAL and JUDGMENT IN A CRIMINAL CASE by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, upon:

Brian A. Jacobs, Esq.  
Assistant United States Attorney  
Southern District of New York  
One St. Andrew's Plaza  
New York, N.Y. 10007

Sworn to before me this  
21 day of October, 2013

  
Omar Evans

  
Notary Public

**ANAND PATEL**  
**NOTARY PUBLIC, State of New York**  
No. 02PA6191073  
Qualified in New York County  
Commission Expires August 4, 2016

## UNITED STATES DISTRICT COURT

Southern District of New York

UNITED STATES OF AMERICA

v.

Xing Wu Pan, a/k/a "Oliver Pan"

## JUDGMENT IN A CRIMINAL CASE

Case Number: (S1) 12 Cr. 153

USM Number: 65961-054

Irwin Rochman

Defendant's Attorney

## THE DEFENDANT:

☐ pleaded guilty to count(s) \_\_\_\_\_☐ pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.☒ was found guilty on count(s) One and Two  
after a plea of not guilty.

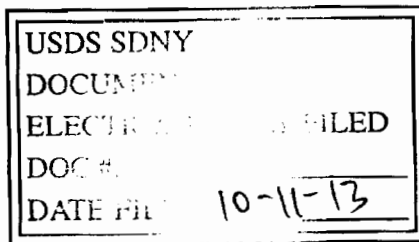
The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 USC 1349	Conspiracy to commit wire fraud	2/28/2012	1
18 USC 1349, 1343 & 2	Attempted wire fraud	2/28/2012	2

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) \_\_\_\_\_☐ Count(s) The original Indictment ☒ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.



10/10/2013

Date of Imposition of Judgment

Signature of Judge

Richard J. Sullivan

Name of Judge

U.S.D.J.

Title of Judge

10/11/2013

Date

DEFENDANT: Xing Wu Pan, a/k/a "Oliver Pan"  
CASE NUMBER: (S1) 12 Cr. 153

### IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

four months on both counts, to run concurrently.

☒ The court makes the following recommendations to the Bureau of Prisons:

that Defendant be housed at the satellite prison camp at either Fort Dix, New Jersey, or Otisville, New York.

☐ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at \_\_\_\_\_ ☐ a.m. ☐ p.m. on \_\_\_\_\_

☐ as notified by the United States Marshal.

☒ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☒ before 2 p.m. on 12/10/2013

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

### RETURN

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_

a \_\_\_\_\_, with a certified copy of this judgment.

UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Xing Wu Pan, a/k/a "Oliver Pan"  
CASE NUMBER: (s-1) 12 cr. 153Judgment—Page 3 of 6**SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be on supervised release for a term of :  
three years on both counts, to run concurrently.

24

The defendant must report to the probation office in the district to which the defendant is released within ~~72~~ hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☒ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. *(Check, if applicable.)*
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. *(Check, if applicable.)*
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. *(Check, if applicable.)*
- ☐ The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense. *(Check, if applicable.)*
- ☐ The defendant shall participate in an approved program for domestic violence. *(Check, if applicable.)*

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

**STANDARD CONDITIONS OF SUPERVISION**

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Xing Wu Pan, a/k/a "Oliver Pan"  
CASE NUMBER: (S1) 12 Cr. 153

Judgment—Page 4 of 6

### **SPECIAL CONDITIONS OF SUPERVISION**

- (1) Defendant shall provide the probation officer with access to any requested financial information.
- (2) Defendant shall not incur new credit charges or open additional lines of credit without the approval of the probation officer.
- (3) Defendant shall participate in a mental health program approved by the U.S. Probation Office. Defendant shall continue to take any prescribed medications unless otherwise instructed by the health care provider. Defendant shall contribute to the costs of services rendered not covered by third-party payment, if Defendant has the ability to pay. The Court authorizes the release of available psychological and psychiatric evaluations and reports to the health care provider, and from the health care provider to Probation.

**DEFENDANT:** Xing Wu Pan, a/k/a "Oliver Pan"

**CASE NUMBER:** (S1) 12 Cr. 153

**The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.**

**TOTALS**

## Assessment

**Fine**

## Restitution

- If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

\_\_\_\_\_

1. The first step in the process is to identify the problem or issue that needs to be addressed. This involves gathering information and understanding the context of the problem.

Figure 1. The effect of the number of trials on the number of correct responses. The number of correct responses was significantly higher than the number of incorrect responses in all cases. The number of correct responses was significantly higher than the number of incorrect responses in all cases.

**TOTALS**

- ☐ the interest requirement is waived for the ☐ fine ☐ restitution.

- ☐
- the interest requirement for the
- ☐
- fine
- ☐
- restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.



DEFENDANT: Xing Wu Pan, a/k/a "Oliver Pan"  
CASE NUMBER: (S1) 12 Cr. 153

### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A ☒ Lump sum payment of \$ 200.00 due immediately, balance due
- ☐ not later than \_\_\_\_\_, or  
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.